

# **REMARKS**

## **I. Applicant's Confirmation of Oral Election**

Applicant hereby provides written confirmation of the election of Invention I, i.e., Claims 1-22 as originally filed, without traverse. Of course, the effect of the restriction requirement is that Invention I (Claims 1-22) are deemed to be patentably distinct from the claims of Invention II (Claims 23-37).

## **II. The Pending Claims and the Amendments to the Claims**

With the entry of the above amendment of the claims, Claims 1 and 3-22 are pending and under examination, and Claims 23-37 stand withdrawn as directed to a non-elected invention. Claim 2 is canceled. With the entry of the amendment above, the claims under examination are Claims 1 and 3-22, with Claim 1 being the only independent claim currently under examination.

Claim 1 is amended by deleting the recitation of "at least one formed region corresponding with a location of a cell, with the at least one formed region of the second film being nested into the at least one formed region of the first film," and inserting therefor ---a plurality of formed regions, the formed regions corresponding with locations of the cells and locations of the connecting channels, with each of the formed regions of the second film being nested into each of the formed regions of the first film---. Support for this amendment can be found in the specification at, for example, Page 3 lines 16-19, taken together with Page 17, lines 5-8 of the specification.

Claim 3 is amended by changing “each of the films is surrounded by an unformed, unbonded region” to ---each of the cells is surrounded by an unformed, unbonded region---. Support for this amendment can be found in the specification at, for example, Page 3 lines 16-23.

Claim 9 is amended by changing “the formed cavities” to ---formed the regions--- (both occurrences). Support for this amendment can be found in the specification at, for example, Page 4 lines 14-15.

The amendments include no new matter.

### III. The Rejection of Claim 9 under 35 USC 112, Second Paragraph

In the 26 June Office Action, Claim 9 is rejected as indefinite as lacking antecedent basis for the phrase “the formed cavities”. In response, Claim 9 is amended by changing “the formed cavities” to ---the formed regions---. Since Claim 1 recites “a plurality of formed regions”, there is antecedent basis for the phrase “the formed regions” in amended Claim 9.

### IV. The 35 USC §103(a) Rejection of Claims 1-20 as Unpatentable over Sperry et al in view of Seckel

Claims 1-20 are rejected under 35 USC 103(a) as unpatentable over US 2002/0166788 A1, to Sperry et al, in view of USPN 6,926,947 B1, to Seckel. The Office Action states that Sperry teaches an inflatable article comprising a first film bonded to a second film so as to provide inflatable chambers comprising a plurality of cells, with each cell connected to an adjacent cell by an inflatable connecting channel. The Office Action admits that Sperry et al fails to teach the formed regions of the second film being nested into the formed regions of the first film. However, the Office Action goes on to state that Seckel teaches a packing material having a first film and a

second film with each film having a formed region, with the formed regions of the second film being nested into the formed regions of the first film.

In response, attention is directed to Claim 1, as amended above, which recites the first film and the second film each having a plurality of formed regions, the formed regions corresponding with locations of the cells and locations of the connecting channels, with each of the formed regions of the second film being nested into each of the formed regions of the first film. More particularly, this portion of Claim 1 recites formed regions corresponding with both formed cells and formed connecting channels, with the formed regions of the second film being nested into the formed regions of the first film. Thus, in amended Claim 1, the formed connecting channels of the second film are nested into the formed regions of the first film.

While Sperry et al does not disclose formed films, and while Seckel discloses formed domes in a first film nested with formed domes in a second film, it does not appear that either Sperry et al or Seckel teach or suggest the combination of a plurality of formed regions, the formed regions corresponding with locations of the cells and locations of the connecting channels, with each of the formed regions of the second film being nested into each of the formed regions of the first film. As such, Applicant contends that Sperry et al in view of Seckel does not establish a prima facie case of obviousness of amended Claim 1. Of course, since dependent Claims 3-20 include all of the features recited in amended Claim 1, Sperry et al in view of Seckel also does not establish a prima facie case of obviousness of any one or more of dependent Claims 3-19, for at least the same reason that Sperry et al in view of Seckel do not establish a prima facie case of obviousness of Claim 1.

V. The 35 USC §103(a) Rejection of Claims 21-22 as Unpatentable  
over Sperry et al in view of Seckel, further in view of Kannankeril et al

Claims 21-22 are rejected under 35 USC 103(a) as unpatentable over Sperry et al in view of Seckel, further in view of EP 1 388 413 A1, to Kannankeril et al. The Office Action relies upon Sperry et al and Seckel as in the rejection of Claims 1-20, but the Office Action admits that Sperry et al fails to teach the first film comprising first and second outer layers, a central oxygen barrier layer, with tie layers between the barrier layer and each of the outer layers. However, the Office Action goes on to state that Kannankeril et al discloses a cellular cushioning article having a first film comprising first and second outer layers, a central oxygen barrier layer, and a tie layer between the barrier layer and each of the outer layers in both the first and second films of the article. The Office Action states that it would have been obvious to have modified the first and second films of the inflatable article of Sperry et al with the films taught in Kannankeril et al in order to provide additional shock resisting action that resists popping and that exhibits excellent creep resistance and cushioning properties.

In response, Applicant again directs attention to amended Claim 1 and the accompanying arguments above as to the patentability of Claim 1 and all claims depending therefrom. The above arguments in favor of the patentability of amended Claim 1, and all claims depending therefrom, also apply to Claims 21 and 22, as each of Claims 21 and 22 ultimately depends from amended Claim 1.

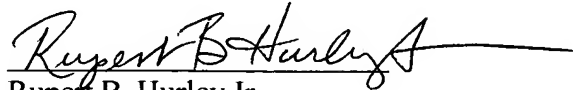
More specifically, Applicant contends that regardless of the disclosure of the multilayer film utilized in the cellular cushioning article of Kannankeril et al, neither Sperry et al nor Seckel

nor Kannankeril et al teach an inflatable cushioning article comprising the combination of a plurality of formed regions, the formed regions corresponding with locations of the cells and locations of the connecting channels, with each of the formed regions of the second film being nested into each of the formed regions of the first film. As such, Applicant contends that Sperry et al in view of Seckel further in view of Kannankeril et al does not establish a prima facie case of obviousness of amended Claim 1 and of dependent Claims 21 and 22 that depend ultimately from amended Claim 1.

#### Conclusion

Applicants respectfully request entry of the amendments above, and favorable consideration of the remarks in support of the patentability of pending Claims 1 and 3-22, with a view towards allowance.

Respectfully Submitted,



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